

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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AMERICAN HOME ASSURANCE COMPANY, :
a/s/o OCE PRINTING SYSTEMS GmbH :

Plaintiff, :

- v - :

EL AL ISRAEL AIRLINES, LTD. and NORTH :
AMERICAN VAN LINES, :

Defendants. :

Docket No. 07 CV 2883 - NRB

**ANSWER OF
EL AL ISRAEL AIRLINES**

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Defendant EL AL ISRAEL AIRLINES, LTD. (hereinafter "El Al"), by and through its attorneys Kaplan, von Ohlen & Massamillo, LLC, for its Answer to the Complaint of Plaintiff herein:

1. Denies the allegations in paragraph First of the Complaint, except El Al admits this Court has jurisdiction pursuant to 28 U.S.C. § 1331.
2. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs Second, Fourth and Seventh of the Complaint.
3. Denies the allegations in paragraph Third of the Complaint, except El Al admits it is a foreign air carrier as defined by 49 U.S.C. § 40102 engaged in the international transportation of cargo performed by aircraft for reward.
4. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph Fifth of the Complaint, except El Al admits that pursuant to its air waybill 114-4648 6624, dated 8 April 2005, it transported 24 pieces with a gross weight of 5,37.5

kilograms said to be a consolidation shipment from Frankfurt, Germany to JFK International Airport, New York, New York.

5. Denies the allegations in paragraphs Sixth and Eighth of the Complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

6. The destruction, loss or damage to the goods alleged in the Complaint, if any, did not take place during the transportation by air and, therefore, El Al is not liable to plaintiff pursuant to Article 18(1) of the 1999 Montreal Convention.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

7. Alleges upon information and belief that pursuant to Article 18(2) of the 1999 Montreal Convention, El Al is not liable to plaintiff in that the destruction, loss or damage to the goods, if any, resulted from an inherent defect, quality or vice of the goods.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

8. Alleges upon information and belief that pursuant to Article 18(2) of the 1999 Montreal Convention, El Al is not liable to plaintiff in that the destruction, loss or damage to the goods, if any, resulted from defective packing of the goods performed by a person other than El Al, or its servants or agents.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

9. Alleges upon information and belief that pursuant to Article 20 of the 1999 Montreal Convention, El Al is not liable to plaintiff or its liability, if any is partial and limited.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

10. Alleges that the liability of El Al, if any, is partial only and limited pursuant to Article 22 of the 1999 Montreal Convention.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

11. Plaintiff failed to provide a notice of claim within the time or in the manner required by Article 31 of the 1999 Montreal Convention and, therefore, defendant El Al is not liable to Plaintiff.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

12. Pursuant to its Conditions of Contract, defendant EL AL is not liable to Plaintiff.

AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE

13. Pursuant to its Conditions of Contract, defendant EL AL's liability, if any, is partial only and limited.

AS AND FOR A NINTH AFFIRMATIVE DEFENSE

14. Each claim for relief alleged in the Complaint herein is barred by Article 35 of the 1999 Montreal Convention.

WHEREFORE, defendant EL AL ISRAEL AIRLINES demands judgment dismissing the Complaint or, in the alternative, limiting its liability, if any, in accordance with the foregoing, together with the costs and disbursements of this action.

Dated: New York, New York
May 29, 2007

KAPLAN, von OHLEN & MASSAMILLO, LLC

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